

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Petition for Rulemaking of) RM No. 9097
Ameritech New Media, Inc. for Rulemaking)
to Amend 47 C.F.R. § 76.1003 – Procedures for)
Adjudicating Program Access Complaints)

REPLY COMMENTS OF RAINBOW MEDIA HOLDINGS, INC.

Rainbow Media Holdings, Inc. ("Rainbow"), by its attorneys and pursuant to section 1.405(b) of the Commission's rules, hereby replies to comments filed in the above-captioned matter. As Rainbow explained in its initial comments in opposition, Ameritech New Media, Inc.'s ("Ameritech") petition is a public relations and lobbying ploy that does nothing more than rehash previous complaints about the program access rules.^{1/} The petition provides no evidence that the existing program access rules are inadequate to implement the provisions of section 628 of the Communications Act of 1934.

The comments filed in support of Ameritech's petition do not raise any issues or arguments different than those contained in Ameritech's petition, and provide no basis for the relief Ameritech seeks. Allegations about Rainbow raised by two commenters are without foundation and should be dismissed as irrelevant to this proceeding.

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^{1/} See Rainbow Media Holdings, Inc.'s Opposition to Ameritech New Media, Inc.'s Petition for Rulemaking at 7 (filed June 2, 1997) ("Rainbow Opposition").

First, Americast, like Ameritech, claims that it has had problems obtaining regional sports and other programming from Rainbow.^{2/} It further alleges that because of a “[lack] of decision on its program access complaint [against Rainbow]. . . Americast has had to decide whether to delay introduction of service or launch new systems at a severe competitive disadvantage.”^{3/} Each of these claims is baseless. As Rainbow noted in its opposition, Americast has had access to SportsChannel Chicago and other Rainbow programming since February 26, 1996, and to SportsChannel Ohio programming since June 5, 1996, well before it filed its program access complaint in December 1996.^{4/}

Likewise, Americast’s claim that its launch of services and systems has been affected by the pendency of its program access complaint is disingenuous at best. In the months since Americast filed its complaint, it has requested Rainbow programming for additional systems and service areas. Rainbow has never denied a request by Americast to carry Rainbow programming in any area. These facts fatally undermine Ameritech’s petition.

Second, the Wireless Cable Association International (“WCA”) presents a one-sided and intentionally misleading view of recent cable industry announcements to suggest that cable competitors will somehow find it more difficult to obtain access to satellite cable programming. In particular, WCA alleges that the recently-announced acquisition of TCI systems by Cablevision Systems Corporation and the venture among Liberty Media Corporation, Fox Sports, and

^{2/} Comments of Americast in Support of Petition for Rulemaking of Ameritech New Media, Inc. at 7 (filed June 2, 1997).

^{3/} Id.

^{4/} Rainbow Opposition at 2; see also Answer of Rainbow, Corporate Media Partners d/b/a Americast v. Rainbow Programming Holdings, Inc., CSR File No. 4873-P (filed Jan. 10, 1997).

SportsChannel will make cable programmers "more beholden to large MSOs."^{5/} According to WCA's unsupported claims, these and other deals will have "a chilling effect on the willingness" of non-vertically integrated "cable programmers to sell to alternative MVPDs" and that "there already is some evidence that the new Fox/TCI/Cablevision national cable sports programming service will give TCI's cable systems additional leverage over ESPN and other competing cable sports programming services, thereby providing an additional means for encouraging programmers like ESPN to engage in discriminatory conduct towards alternative MVPDs as a means of currying favor with TCI."^{6/}

Not surprisingly, WCA ignores the fact that the TCI/Cablevision and Liberty Media/Fox/SportsChannel deals will increase competition in the sports programming market and provide expanded communications options for consumers.^{7/} Even more importantly, WCA's claims are irrelevant to this petition. WCA does not argue that any satellite cable programming vendor that is or will become affiliated with Cablevision or TCI has refused to sell its programming to MVPDs; to the contrary, its primary concern appears to be that ESPN and other non-vertically integrated programmers will refuse to sell. Reduced to its essence, WCA's

^{5/} See Comments of The Wireless Cable Association International, Inc. at 4-8 (filed June 2, 1997).

^{6/} Id. at 8.

^{7/} With the acquisition of some 800,000 subscribers from TCI in the New York metropolitan area, Cablevision will have the economies of scale and scope necessary to support substantial investments in a new generation of telecommunications and programming services. Cablevision will be able to expand its system capacity to more than 100 channels; continue to introduce commercial and residential telephone service and high-speed data transmission services to the Tri-State region; and offer video-on-demand. The Liberty Media/Fox/SportsChannel deal combines the sports programming depth and expertise of these companies to provide the first truly national, regional, and local supplier of sports programming, offering a competitive alternative to ESPN.

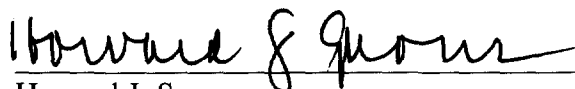
complaint is about conduct that is not even covered by the program access rules. The Commission should ignore WCA's spurious assertions.

Conclusion

The comments filed in support of Ameritech's petition provide no evidence to justify amending the program access rules. For the reasons set forth above and in Rainbow's initial comments, the Commission should deny Ameritech's petition.

Respectfully submitted,

RAINBOW MEDIA HOLDINGS, INC.



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CERTIFICATE OF SERVICE

I, Michael B. Bressman, hereby certify that on this 17th day of July 1997, I caused copies of the foregoing Reply Comments of Rainbow Media Holdings, Inc. to be sent via first class mail to the following:



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